

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4620-01  
Bill No.: Perfected HB 1133  
Subject: Health Care Professionals; Health Department; Drugs and Controlled Substances;  
Pharmacy  
Type: Original  
Date: February 11, 2014

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Bill Summary: This proposal establishes the Prescription Drug Monitoring Program Act.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 9 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Health and Senior Services (DHSS)** provide the following information:

#### § 195.453.1 - Grants, Gifts and Donations:

This section of the proposal states, in part:

*“...The department may apply for any available grants and shall accept any gifts, grants, or donations to develop and maintain the program. All funding for prescription drug monitoring program shall be provided exclusively by gifts, grants, and donations.”*

The DHSS assumes none of the costs associated with a prescription drug monitoring system will be funded with General Revenue. Also, since the DHSS is not aware of any potential grant funding opportunities at this time, none of the prescription monitoring costs are assumed to be funded by grants. All costs of the prescription monitoring program (Sections 195.450 through 195.465 of the proposal) are, therefore, assumed to be funded solely by gifts and donations deposited into the Donated Fund. At this time, the DHSS is not aware of any potential gifts for donations for this purpose.

Further, the DHSS assumes costs related to a prescription monitoring program would commence in FY 2015. However, if gifts, grants, or donations sufficient to fund the prescription monitoring program on an ongoing basis are not received, it is assumed the program would not be implemented.

#### §§ 195.450 through 195.465 - Drug Monitoring Program Act:

One Health and Senior Services Manager (\$39,980 annually) will be needed to perform the following duties:

- Draft a Request for Proposal to solicit bids for the required database. Once the contract is awarded, this individual will be needed on an ongoing basis to monitor the database contract and program, maintain ongoing communication with professional organizations regarding compliance with reporting requirements, and other state and local agencies and the public regarding the program;
- Coordinate with investigative management of the Bureau of Narcotics and Dangerous Drugs (BNDD) for enforcement activities and with law enforcement and regulatory agencies of Missouri and other states for sharing data and tracking outcomes;
- Develop rules, policies, and procedures for reporting by dispensers and access to data by authorized parties;

ASSUMPTION (continued)

- Provide technical assistance to program participants on matters relating to the program;
- Supervise subordinate staff involved in program implementation;
- Design and prepare reports of program data and review data collected to determine trends;
- Provide required educational programs regarding the Prescription Drug Monitoring Program required in Section 195.468; and
- Develop reports to the General Assembly regarding the pilot project on prescription fraud (Section 195.477).

One Senior Office Support Assistant (\$25,568 annually) will:

- Provide clerical support to the program;
- Respond to inquiries and requests for database reports received;
- Perform coordination of communication with other agencies and the public and maintenance of memoranda of understanding for data sharing;
- Assist practitioners in obtaining access to the reporting subsystem of the program;
- Generate and e-mail or generate, print, and fax reports as requested by authorized individuals and agencies that cannot access this information via the internet, and
- Respond to routine telephone inquiries regarding the program as well as answer the toll-free number established for reporting prescription fraud (Section 195.471).

One Investigative Manager (\$39,980 annually) will:

- Review database information;
- Assign and supervise investigations;
- Assist the manager in operating the database and supervise investigative staff; and
- Assist the manager in providing the required educational courses (Section 195.468).

The above three positions will be hired as of September 1, 2014.

Three Investigator II positions will be needed to respond to complaints and conduct investigations. These positions are assumed to be telecommuters. These positions will be hired as of January 1, 2015.

An unknown, greater than \$1,000,000 amount of support from Office of Administration - Information Technology Services Division (ITSD) will be needed to assist DHSS in the first year to develop/purchase, establish, and maintain and program the Prescription Drug Monitoring Program for the monitoring of prescribing and dispensing of all schedule II, III, and IV controlled substances by all professionals licensed to prescribe or dispense such substances in this state. On-going ITSD annual costs for updating and maintaining the online system after the first year are estimated to be unknown greater than \$200,000.

ASSUMPTION (continued)

§ 195.453.5 - Transmission cost reimbursement:

This section requires the DHSS to reimburse dispensers for fees and other direct costs of transmitting the required information. The DHSS is not able to estimate the increase in the number of payments the department would have to process or the amount of the reimbursement, as both the nature and amount of any fees and/or any direct costs that would be incurred by the dispensers are unknown. Therefore, the DHSS considers the amount that would be required in order to reimburse dispensers to be unknown.

Section 195.477 - Toll-free hotline for pilot project:

This section of the proposed legislation requires the DHSS to establish a toll-free hotline by January 1, 2016. The per minute charge for a toll-free line is \$0.0577 per minute. DHSS assumes the hotline will be established in FY 16 and there will be an estimated 1,000 calls per year at an average of 5 minutes each. The estimated yearly cost is \$288.50 ( $1,000 \times 5 = 5,000 \times 0.0577 = \$288.50$  per year).

Section 195.477.5 of the proposal states, in part:

*The department shall implement and provide all monitoring under the pilot project with existing department employees. Nothing in this section shall be construed as authorizing the hiring of additional employees to implement this pilot project and the department is required to implement this pilot project upon receipt of gifts, grants, and donations received for such purpose, without any additional state appropriations or department staff; except that, the department may enter into agreements with other state agencies or a private vendor, as necessary, to ensure the effective operations of the program if such agreements are funded solely from gifts, grants, and donations. Any agency or private vendor entering into an agreement with the department for the pilot project shall comply with the confidentiality provisions regarding the prescription information under section 195.456.*

The proposed legislation requires that the pilot project be established by January 1, 2016; therefore, the first year of operations is assumed to be FY 16 for fiscal note computation purposes. However, unless gifts or donations are received to fund the costs of the pilot project, the assumption is made that it will not be undertaken.

In summary, the DHSS assumes the proposal would have costs to Donated Fund of Unknown greater than \$1,328,543 for FY 15; costs Unknown greater than \$662,648 for FY 16; and costs Unknown greater than \$668,212 for FY 17.

ASSUMPTION (continued)

**Oversight** contacted the DHSS regarding their comment about being unaware of any potential grants being available to fund the program. Based on additional information provided by the DHSS, it has been determined that at least one grant of up to \$400,000 is available through the U.S. Department of Justice (Harold Rogers Prescription Drug Monitoring Program grant). Grant funds are available for states having pending or enabling statute that requires the submission of controlled substance prescription data to an authorized state agency or to state agencies with existing or operational prescription drug monitoring programs. This funding is available for 18 months.

**Oversight** assumes the DHSS would have to receive assurance of donated funds or grant monies prior to implementing the provisions of this proposal. However, for fiscal note purposes, the proposal would have no net fiscal impact because: 1) the Prescription Drug Monitoring Program does not receive sufficient funds to cover DHSS costs and is not implemented or 2) program donations and gifts are sufficient to cover the anticipated costs and income and expenditures net to \$0.

Officials from the **Office of Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes this is a small amount and does not expect that additional funding would be required to meet these costs. However, it is also recognized that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain within its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the new crimes of dispensation of pharmaceuticals monitoring.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases.

**Oversight** assumes the SPD can absorb the additional caseload that may result from this proposal.

ASSUMPTION (continued)

Officials from the **Office of Prosecution Services (OPS)** assume the proposal will have no measurable fiscal impact on the OPS. The creation of a new crime creates additional responsibilities for county prosecutors which may, in turn, result in additional costs, which are difficult to determine.

**Oversight** assumes the potential responsibilities imposed on county prosecutors as a result of this proposal, will be absorbable within current funding and staffing levels.

Officials from the **Department of Corrections (DOC)** state the penalty provisions for violations, the component of the bill to have a potential fiscal impact for DOC, is for a class A misdemeanor. Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost through supervision provided by the Board of Probation and Prole (FY 13 average of \$5.07 per offender, per day, or an annual cost of \$1,851 per offender).

The DOC assumes supervision by the DOC through probation would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Office of Attorney General** note that Section 195.465.1 provides that dispensers who knowingly fail to submit information or knowingly submit incorrect information shall be subject to an administrative penalty and may appeal the penalty to the Administrative Hearing Commission. The AGO assumes this will result in an increase in its caseload. Without knowing the number of resulting appeals, the AGO assumes any potential costs arising from this proposal can be absorbed with existing resources. If there is a significant increase in the number of referrals, or if multiple provisions pass, the AGO may seek additional appropriations.

Officials from the **Joint Committee on Administrative Rules (JCAR)** state the legislation is not anticipated to cause a fiscal impact to JCAR beyond its current appropriation.

Officials from the **Office of Administration - Administrative Hearing Commission** anticipate this legislation will not significantly alter its caseload. However, if similar bills pass, resulting in more cases, there will be a fiscal impact.

ASSUMPTION (continued)

Officials from the **Department of Mental Health (DMH)** provide state-operated hospitals' initial set-up of records, monthly maintenance, and logging of activity would be required to comply with the provisions of the Prescription Drug Monitoring Program Act; however, this cost should be minimal. Since the proposal requires that the program be funded exclusively from grants, gifts and donations, it is assumed that the DMH would experience no fiscal impact from the legislation.

Officials from the **Office of State Courts Administrator**, the **Department of Insurance**, **Financial Institutions and Professional Registration**, the **Department of Social Services**, and the **Department of Public Safety - Missouri State Highway Patrol** each assume the proposal would not fiscally impact their respective agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This proposal establishes the Prescription Drug Monitoring Act. The Department of Health and Senior Services is required to establish and maintain a program to monitor the prescribing and dispensing of all Schedule II through Schedule IV controlled substances by all licensed professionals who prescribe or dispense these substances in Missouri. The provisions of this proposal shall be funded with federal or private moneys.

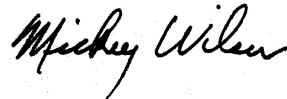
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

HWC:LR:OD



SOURCES OF INFORMATION

Office of Attorney General  
Office of Administration -  
    Administrative Hearing Commission  
Office of State Courts Administrator  
Department of Insurance, Financial Institutions and Professional Registration  
Department of Mental Health  
Department of Corrections  
Department of Health and Senior Services  
Department of Social Services  
Department of Public Safety -  
    Missouri State Highway Patrol  
Joint Commission on Administrative Rules  
Office of Prosecution Services  
Office of Secretary of State  
Office of State Public Defender



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